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STATE OF CALIFORNIA  
Edmund G. Brown, Jr., Governor

**MINUTES  
SAN JOAQUIN RIVER CONSERVANCY**

Governing Board  
**Wednesday, May 3, 2017**

5469 E. Olive Avenue  
Fresno, California 93727  
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**GOVERNING BOARD**

Andreas Borgeas, Chairperson  
*Fresno County Board of Supervisors*

Brett Frazier, Vice-Chairperson  
*Madera County Board of Supervisors*

Steve Brandau  
*Councilmember, City of Fresno*

William Oliver  
*Councilmember, City of Madera*

Barbara Goodwin, Director  
*Fresno Metropolitan Flood Control District*

Carl Janzen, Director  
*Madera Irrigation District*

Julie Vance, Regional Manager  
*Department of Fish and Wildlife*

Kent Gresham, Sector Superintendent  
*Department of Parks & Recreation*

John Donnelly, Executive Director  
*Wildlife Conservation Board*

Patrick Kemp, Assistant Secretary  
*Natural Resources Agency*

Jennifer Lucchesi, Executive Officer  
*State Lands Commission*

Karen Finn, Program Budget Manager  
*Department of Finance*

Bryn Forhan  
Paul Gibson  
vacant  
*Citizen Representatives*

Melinda S. Marks  
*Executive Officer*

**Board Meeting Location:**

Fresno Metropolitan Flood Control District Board Room  
5469 E. Olive Avenue, Fresno, CA 93727

**The following locations were also open to Board members  
and the public for attendance via phone conference:**

California Natural Resources Agency  
1416 Ninth Street, Ste. 1311  
Sacramento, CA 95814

And  
Public Hotel Lobby  
Sofitel Washington DC Lafayette Square,  
806 15th Street NW, Washington, DC 20005

**MEETING AGENDA**

**CALL TO ORDER & PLEDGE OF ALLEGIANCE**

Chairperson Borgeas called the meeting to order at 10:03 a.m. and led the pledge of allegiance.

**A. ROLL CALL**

Name	Present	Telecon- ference	Absent	Late
<b>Mr. Andreas Borgeas</b>	X			
<b>Mr. Brett Frazier</b>	X			
<b>Mr. Steve Brandau</b>		X		
<b>Mr. Will Oliver</b>	X			
<b>Ms. Barbara Goodwin</b>	X			
<b>Mr. Carl Janzen</b>	X			
<b>Ms. Julie Alvis</b>	X			
<b>Ms. Julie Vance</b>	X			
<b>Mr. Kent Gresham</b>	X			
<b>Mr. John Donnelly</b>	X			
<b>Ms. Jennifer Lucchesi</b>		X		
<b>Ms. Karen Finn</b>		X		
<b>Ms. Bryn Forhan</b>	X			
<b>Mr. Paul Gibson</b>	X			

Ms. Wright confirmed that a quorum was present.

Legal Counsel Present: Michael Crow, Deputy Attorney General

Staff present: Melinda Marks, Executive Officer  
Rebecca Raus, Associate Governmental Program Analyst  
Janah Wright, Staff Services Analyst  
Heidi West, Program Manager, San Joaquin River Conservancy  
Projects, Wildlife Conservation Board

**B. PUBLIC COMMENT & BUSINESS FROM THE FLOOR**

The first ten minutes of the meeting are reserved for members of the public who wish to address the Conservancy Board on items of interest that are not on the agenda and are within the subject matter jurisdiction of the Conservancy. Speakers shall be limited to three minutes. The Board is prohibited by law from taking any action on matters discussed that are not on the agenda; no adverse conclusions should be drawn if the Board does not respond to the public comment at this time.

Mr. Bob Getz, resident at the Wildwood Mobile Home Park in Madera County, asked the Conservancy to request emergency funds to rebuild the mobilehome park's levy. He presented pictures to the Board. He also stated that trees in the location are now leaning due to the high flows.

Chairperson Borgeas recommended Mr. Getz inform the Madera County Board of Supervisors. The County may be able to secure funds through its Declaration of Emergency.

Mr. Frazier offered to visit the resident's home.

Chairperson Borgeas offered to have County of Fresno staff meet with the residents as well.

Mr. Richard Sloan, a resident of Fresno, commented that he believes an easement owned by the Conservancy at the Wildwood Native Park is affected by the high river flows. Ms. Marks said she would talk with Mr. Sloan to get more information.

Chairperson Borgeas stated that as a member of the Fresno County Transportation Authority (FCTA), he asked at the April FCTA meeting if it is possible to use Measure C funding for operations and maintenance on portions of the Conservancy's trails. He said the response was that Amendment 2 to the expenditure plan allows operations funding for trails that are built using non-Measure C funding. He reported that a non-government agency may be able to receive Measure C funding, so organizations such as the San Joaquin River Parkway and Conservation Trust could benefit from FCTA Measure C funding for operations and management of Parkway trails.

**C. ADDITIONS TO THE AGENDA**

Items identified after preparation of the agenda for which there is a need to take immediate action. Two-thirds vote required for consideration. (Gov. Code § 54954.2(b)(2))

There were none.

**D. POTENTIAL CONFLICTS OF INTEREST**

Any Board member who has a potential conflict of interest may now identify the item and recuse themselves from discussion and voting on the matter. (FPPC §97105)

There were none.

**E. MINUTES**

**E-1 Approve Minutes of March 1, 2017**

**It was moved by Ms. Forhan and seconded by Mr. Oliver to approve the minutes of March 1, 2017, as presented. The voting members unanimously passed the motion as follows:**

**ROLL CALL VOTE:**

<b>Name</b>	<b>Yes</b>	<b>No</b>	<b>Abstain</b>
<b>Chairperson Borgeas</b>	<b>X</b>		
<b>Mr. Frazier</b>			<b>X</b>
<b>Ms. Alvis</b>	<b>X</b>		
<b>Mr. Brandau</b>	<b>X</b>		
<b>Mr. Oliver</b>	<b>X</b>		
<b>Ms. Goodwin</b>	<b>X</b>		
<b>Mr. Janzen</b>	<b>X</b>		
<b>Ms. Vance</b>	<b>X</b>		
<b>Mr. Gresham</b>	<b>X</b>		
<b>Mr. Donnelly</b>	<b>X</b>		
<b>Ms. Lucchesi</b>	<b>X</b>		
<b>Ms. Finn</b>	<b>X</b>		
<b>Ms. Forhan</b>	<b>X</b>		
<b>Mr. Gibson</b>	<b>X</b>		

**F. CONSENT CALENDAR**

All items listed below will be approved in one motion unless removed from the Consent Calendar for discussion:

**F-1 Re-Authorize a Grant to the San Joaquin River Parkway and Conservation Trust with Scope of Work and Budget Revised to Include Installing Native Plants, as well as Performing Plant Establishment and Habitat Restoration Success Activities, as the Final Phases of the Sycamore Island Gravel Pit Isolation and Floodplain Improvement Project**

**Staff Recommendation:** It is recommended the Board re-authorize a grant to the San Joaquin River Parkway and Conservation Trust (River Parkway Trust) with a revised budget of \$218,660 to install native plants on the created floodplain and affected riverbank and to perform plant establishment and habitat restoration success activities for the Sycamore Island Gravel Pit Isolation and Floodplain Improvement Project. The services will be performed for five years, commencing in late 2017, Wildlife Conservation Board (WCB) authorization would be requested at their August 2017 meeting.

**It was moved by Mr. Gibson, seconded by Ms. Forhan, and unanimously passed to approve staff's recommendation for Item F-1 as presented:**

## ROLL CALL VOTE:

Name	Yes	No	Abstain
Chairperson Borgeas	X		
Mr. Frazier	X		
Ms. Alvis	X		
Mayor Brandau	X		
Mr. Oliver	X		
Ms. Goodwin	X		
Mr. Janzen	X		
Ms. Vance	X		
Mr. Gresham	X		
Mr. Donnelly	X		
Ms. Lucchesi	X		
Ms. Finn	X		
Ms. Forhan	X		
Mr. Gibson	X		

Chairperson Borgeas announced that Item G-1 would not proceed until 11:00 a.m., for a scheduled presentation by the Mayor of Fresno. He then requested H. Reports, and G-2 the Parkway Master Plan Update and Draft Environmental Impact Report proceed first.

## H. REPORTS

### H-1 Organizations

#### H-1a San Joaquin River Parkway and Conservation Trust

Ms. Sarah Parkes, Director of Annual Giving, reported that they are preparing to host River Camp for the summer season. She stated that they have already reached more than 50% registration. She encouraged anyone who is interested to register. Ms. Parks mentioned that they have completed their school educational programs and have provided field trips to more children than ever before.

#### H-1b RiverTree Volunteers

There was no report.

### H-2 Deputy Attorney General

Mr. Crow reported that the California Supreme Court ruled that text messages and emails sent by public employees on their personal devices or accounts are a matter of public record if they deal with official business. If public employees use their private text messages and emails to conduct government business, the messages are subject to disclosure under the Public Records Act. Mr. Crow advised public officials to be aware of the matter if they engage in those activities.

In response to an inquiry from Chairperson Borgeas, Mr. Crow reported that ultimately the owner of the cellphone or email account would be responsible for reviewing and disclosing such information pursuant to a Public Records Act request. For many agencies, there are Public Records Act officers who are responsible for compiling the requested public records and responding to Public Records Act requests.

Ms. Vance asked if a subpoena could result in the device being searched. Mr. Crow responded that a subpoena would involve a whole different level of legal issues.

Mr. Gibson asked if getting separate email accounts for private and business messages is a fair practice to deal with the issue. Mr. Crow stated that he wanted to avoid specific recommendations until he has received more information, but it would be wise to segregate emails. He explained that a Board member would not be required to hand over a cell phone or computer for a Public Records Act Request, but that records relevant to the request on personal devices would need to be provided.

Chairperson Borgeas encouraged Mr. Crow to report any additional guidance when it becomes available.

#### H-3 Executive Officer

There was no report.

#### H-4 Board Members' Reports

Mr. Janzen stated that the river flow will be very high at least through June or the middle of July. There is a great deal of water stored in the snow pack, and when it comes down there will not be enough places to recharge it into the groundwater basin.

Mr. Frazier reported that he spoke to Caltrans on behalf of Wildwood Mobilehome Park, and as the snowpack starts to melt they are prepared to use sand bags to keep water from coming into the homes.

Ms. Marks added that Wildwood Native Park has been closed while the river flows are over 4,000 cfs, and will remain closed until further notice.

Mr. Gibson thanked Richard Sloan and River Tree Volunteers, for doing an exceptional job cleaning the Palm and Nees area.

### G. DISCUSSION

#### G-2 Informational Presentation on Proposed Parkway Master Plan Update and Draft Environmental Impact Report (EIR)

Staff Recommendation: This agenda item is for informational purposes. No Board action will be taken at this meeting. Any comments on the proposed San Joaquin River Parkway Master Plan Update and Draft EIR, including those that may be made at the meeting, must be made in writing and postmarked or emailed to the Conservancy not later than June 29, 2017, in order for the responses to be included in the Final EIR. Comment cards for attendees to submit written comments on the Draft EIR will be provided at the meeting.

Ms. Marks reported that the Draft EIR was released for review on May 1, 2017. The Parkway Master Plan was first adopted in 1997. The updated Parkway Master Plan describes the existing Parkway, including accomplishments so far, in terms of land, features and facilities. It describes the Conservancy's jurisdiction as a state agency, the jurisdictional planning area, and public lands acquired by the state for Parkway purposes, which consists of 2,595 acres to date. It describes other public lands along the river used for conservation, public access and recreational purposes. The Master Plan identifies the California Department of Fish and Wildlife Ecological Reserves, County and City parks,

Scout Island, and Parkway Trust lands as well. The Master Plan also describes investments that have been made in habitat restoration, public access, and recreation.

Ms. Marks explained that the Parkway Master Plan provides updated goals, policies, objectives, design guidelines, and Best Management Practices (BMPs). They were presented to the board in spring 2013 over a series of meetings. The new goals and policies are shown in bold, making them easier to identify. The existing policies are cross referenced to the 1997 plans. There are new goals and policies to support: the San Joaquin River Restoration Program; the Proposition 1 Watershed Benefit Program; and to reflect on-going practices, such as the project evaluation process. There is no intent to backslide, and all of the existing policies remain. The update proposes to revise prior language that implied the Conservancy had direct authority over land use on private property within the Parkway Plan area; the language is revised to make it clear that the Conservancy's policies are advisory to the local agencies. In June 2013, the proposed Buffer policies were refined per Board direction, to provide greater flexibility.

Ms. Marks presented the Parkway Master Plan map. It shows lands that have been acquired, and also makes reference to the approved and conceptual plans, such as the Lost Lake Park conceptual plan, and the River Vista approved plan. Ms. Marks explained that the Lost Lake Plan was presented to the County Board as a conceptual plan; the County decided to wait for the Master Plan to be adopted before they pursued an Environmental Impact Report for the Lost Lake Park conceptual plan.

Ms. Marks noted that the Master Plan states, "The location of all Parkway facilities are subject to acquiring property from willing sellers, site- and project-specific design, environmental review, and public participation." The Parkway Master Plan Update has two maps side by side, one from the current plan developed in 1995 when very few lands had been acquired, and one which shows the public lands, existing features, planned features, and opportunities. Again the map states, "Planned trail alignments...on private property are shown only for illustrative purposes." Everything that has not been a part of an approved plan is still subject to site-specific planning and review. Future projects would be evaluated with regard to how they conform to the updated policies, and would implement the mitigation measures in the programmatic EIR.

Chairperson Borgeas asked about the mechanisms to ensure actions the Board takes are compatible with the General Plans, specific plans, or policies of the counties or the City.

Ms. Marks responded that upon approval, this is a policy document of the San Joaquin River Conservancy. When the 1997 Parkway Master Plan was completed, the three land use jurisdictions—City of Fresno, County of Fresno and County of Madera—at their discretion incorporated many of the Parkway Master Plan policies into their General Plans. Within the EIR the proposed Master Plan Update is compared to the existing policies of the counties and the city. Once the Board adopts the proposed policies, there may be a next step to request the land use agencies to incorporate the new or revised policies in their general plans.

Chairperson Borgeas stated that the counties and cities are not bound by the Conservancy's Master Plan, and asked if the Conservancy is bound by their general plans. Ms. Marks responded that for lands that the State owns, the State has the authority to determine land use.

Chairperson Borgeas wanted to know how the Conservancy achieves coordination.

Ms. Marks stated that in the Draft EIR there's a full review of all existing local agency land use policies compared to the policies in the proposed Master Plan Update. She did not think there were any inconsistencies identified; if there are any inconsistencies, they are identified in the Draft EIR.

Mr. Crow added that under the fundamental rule of sovereign immunity, state agencies are generally exempt from local land use and zoning regulation. On land that the State owns, it performs its own land use regulatory functions. However, when projects are proposed, CEQA requires that the project documents disclose whether the project is consistent with the plans of local agencies. CEQA requires that if there are inconsistencies then this must be analyzed in the CEQA document, and may require mitigation.

Ms. Marks stated that these comments should be submitted in writing so that they can look at the question carefully and respond in writing in the Final EIR.

Ms. Vance added that the State is not generally regulated by lower levels of government such as local government, just like federal agencies are not regulated by the state and local agencies. That is why, for example, projects on state property are not required to get local grading permits.

Chairperson Borgeas reported that the County has been dealing with federal and State statutes that provide an impetus for every relevant entity to coordinate before implementation of a regulatory or legislative issue. He wanted to know if the Conservancy was bound through this required coordination to talk with the counties and the city.

Ms. Marks explained that the Conservancy did coordinate with the City's and counties' planning departments in developing the updated Parkway Master Plan policies and completing the Draft EIR. They participate in the Interagency Project Development Committee as well.

Mr. Crow added that San Joaquin River Conservancy Act includes provisions and created the Conservancy to coordinate with local entities on projects, planning documents, etc.

Ms. Marks added that the existing Master Plan, in effect since 1997, includes many policies that focus on coordinating with local agencies, such a policy for coordinating with emergency response agencies. There is a fundamental goal that states, "Develop the Parkway in a transparent, cooperative manner among State and local agencies." After 1997, many but not all of the Parkway Master Plan policies were incorporated into the local agencies' general plans. There is overlap as well as consistency among the agencies' plans.

Ms. Marks continued that the Master Plan Update and programmatic EIR will guide Parkway development and implementation; it does not propose specific projects. The Draft EIR identifies two alternatives. There is a No Project alternative where the 1997 Master Plan would remain in effect without any new BMPs, guidelines, and mitigation measures. The other alternative would be to emphasize creating conservation areas, natural reserves and deemphasize the current work towards building public access and recreation in the Parkway. The Draft EIR identifies potentially significant impacts, mitigation measures, and significant unavoidable impacts. There is an extensive biological resources section; mitigation measures requiring avoidance, minimization, restoration, and replacement would reduce potential impacts to less than significant. Similarly, the other potential impacts are mitigated to less than significant levels.

Ms. Marks reported there are four areas in the programmatic Draft EIR with significant unavoidable impacts: If the Conservancy were to acquire agriculture lands from willing sellers, with about 2,400 acres left to acquire and about 1,000 acres still in agriculture in the Plan Area, any loss of agricultural resources in the area is considered significant. Even if the agricultural lands are isolated and incremental, but they are acquired and converted into recreational and conservation uses, it would be considered a significant and unavoidable impact. The significance of a project on Air Quality and

Greenhouse Gasses cannot be determined without evaluating the impacts on a site-specific project-specific basis. The projects will involve such things as low impact recreational opportunities, staging areas, and multiuse trails, not intense development; however, without the site-specific analyses the potential impacts are identified as significant and unavoidable. Under Hydrology, there is an impact analysis concerning subjecting people or structures to inundation if a dam was to fail. There are a number of measures to keep people out of the Parkway in the event of an impending dam failure, but Parkway structures would be exposed to damage if the dam was to fail. The structures would not contribute to dam failure or exacerbate flooding, but they would be damaged if the dam was to fail.

Ms. Marks stated that the Draft EIR is available for review and comment from May 1 through June 29, 2017. Comments must be in writing via email or postal delivery. Conservancy staff emailed the Notice of Availability to approximately 500 addresses, mailed postcards to about 162 addresses, and published legal notices in Fresno Bee and Madera Tribune.

Board comments:

Mr. Oliver asked staff to elaborate on the makeup of the Interagency Project Development Committee. Ms. Marks reported that an advisory committee was created consisting of staff from member agencies, partners, and anyone else who wants to attend. There are representatives of the twelve agencies on the Conservancy Board, and stewardship groups and citizens participate as well. The noticed meetings take place when policies, priorities, projects, and land acquisitions are being evaluated.

Regarding the land acquisition evaluation criteria, Mr. Oliver inquired whether that committee or through different agencies the Conservancy enlists professional right-of-way services, so that the Conservancy can take a more proactive approach toward gauging the interest of potential property owners on an annual or bi-annual basis.

Ms. Marks responded that Land Agents at the Wildlife Conservation Board participate in such meetings and provide services to the Conservancy. The Conservancy and Wildlife Conservation Board are currently sending interest letters to landowners/potential sellers. She will make sure this professional guidance is referenced in the land acquisition policies of the proposed Master Plan.

Mr. Donnelly congratulated Ms. Marks for getting the Master Plan Update and Draft EIR out for public review. He expressed his appreciation for the work involved and was looking forward to having the project completed.

Ms. Marks thanked Mr. Donnelly and acknowledged the help and expertise of Heidi West from the Wildlife Conservation Board. Ms. West helped staff review and revise the biological resources evaluation, turning it into a manageable chapter with the full technical details in the appendices. The information is still present, but in an organized, readable, and environmentally compliant document.

Public Comments:

There were no comments from the public.

**This was an informational item and no action was taken by the Board.**

Chairperson Borgeas provided a brief break before resuming for item G-1.



- G-1 Consideration of Further Investigations for River West Fresno, Eaton Trail Extension Environmental Impact Report (EIR)
- a. Receive presentation from the City of Fresno regarding the River West Fresno Draft EIR SCHEDULED MATTER, 11:00 A.M.
  - b. Presentation by City of Fresno Mayor Lee Brand
  - c. Discuss and take action on the City of Fresno's offer to study Option 5b for incorporation into the environmental analysis under CEQA; consider and authorize any necessary funding agreements and contract amendments

Staff Recommendation: It is recommended the Board receive presentations from the City of Fresno regarding the Conservancy's River West Fresno Draft EIR, discuss and take action on the City of Fresno's offer to study Option 5B for incorporation into the environmental analysis under the California Environmental Quality Act, and consider and authorize any necessary funding agreements and contract amendments.

Chairperson Borgeas reconvened the meeting at 11:05 a.m., and introduced Mayor Lee Brand of the City of Fresno.

Mayor Brand introduced himself as the City's member on the San Joaquin River Conservancy Board, with Councilman Brandau serving as alternate. He also served as a member when he was a councilman for a few years, and was a member of the San Joaquin River Parkway and Conservation Trust. Mayor Brand shared his history over the past 15 to 20 years with gaining public access to the river. He stated that it is important that the proposed project happens in a way that everyone can be satisfied, without organizations or government entities facing lawsuits.

Mayor Brand offered to provide the Conservancy a revised EIR of the specific Palm and Nees river access point identified as Route 5B. He requested that the Final EIR be paused until the new Palm and Nees river access section is complete. Then the entire Final EIR can be considered. He added that he continues to support the City's policies adopted in the 2035 General Plan.

Chairperson Borgeas stated he has been involved in river access - related issues going on nine years. He expressed concern that the public is tired and wants results, not big delays. He asked how quickly the City of Fresno can complete the studies of the additional Alternative 5B. He stated that if the process turns into a six to twelve month process, there may be critics.

Mayor Brand responded that not precisely speaking, the process may take weeks, not months. He said that he will expedite the project through the City Manager's office so that it takes the least amount of time possible to resolve the long standing goal to open the river for public access.

City Manager, Bruce Rudd added the estimated time to complete the Alternative 5B studies would be approximately three to four months.

#### Board Discussion:

Ms. Vance stated that because this option wasn't fully analyzed in the Draft EIR, as a result of new analyses or a new alternative, she understood that the document with revisions would need to be recirculated. Therefore, that could result in many months of delay.

Chairperson Borgeas confirmed that the review period for recirculation would be forty-five days.

Ms. Vance added that it would take time to perform the additional analysis, prepare a new or revised document, recirculate the document for a new public comment period, and respond to additional comments in a new document for the Final EIR.

On inquiry from Ms. Vance about the Conservancy's existing consulting services, Ms. Marks responded that the contract will expire December 31. There will not be a consultant to complete the EIR after that date.

Chairperson Borgeas commented that a three to four month timeframe to complete the proposed work is admirable; however, he expressed concern about the EIR project extending into the New Year. The current services available to complete the EIR expire December 31. If it takes three to four months, then this matter could be voted on in September.

Ms. Marks commented that voting cannot take place until the revised information is recirculated and then incorporated and presented in the final EIR. Ms. Marks asked the City to explain the details of its proposed services and its timeframe: Is the City offering to complete the analyses in three to four months, and are they going to perform the work necessary to recirculate the draft and subsequently respond to comments, and get it all done during that time?

Chairperson Borgeas stated that the key is to not put the December 31 deadline at risk. He asked the City Manager, given that we are in the month of May, in the amount of time we have left, can we fully accommodate all matters before the deadline?

Mr. Rudd stated that in his opinion it could happen. Once they engage with the consulting firm (likely Blair Church and Flynn Consulting Engineers), if the consultants report that the process will take longer than originally anticipated, then the City will come back and present that information to the Board. The City is sensitive to the timeline associated with the Final EIR.

Ms. Marks asked Mr. Rudd whether the anticipated three to four months means the City's consultants would provide the Conservancy a document within that time, and the Conservancy would then need to recirculate it, respond to the comments, and incorporate it in the Final EIR.

Mr. Rudd responded yes.

Ms. Marks followed: it does not include the City doing those steps?

Mr. Rudd answered no.

Ms. Vance mentioned the information presented about landfills in the area; there are materials buried and a lot of unknowns. Has there been a Phase I or Phase II on the landfill site? If not, would the City study include that?

Ms. Marks stated that originally when the Conservancy was considering acquiring the Spano property in early 2000, there was a Phase I, and limited Phase II on the property underlying the proposed 5B parking area. There have been a number of other analyses in the bluff area by other parties, but she wasn't sure if other Phase II investigations have been accomplished.

Mr. Gibson thanked the Mayor for attending. He stated that the Conservancy is on the verge of opening what is going to be a large regional public access park, once you tie together Woodward Park, and lands across the river that the Conservancy operates, including Sycamore Island, which is very close to the Palm Nees area. He stated that there are multiple opportunities to work with the City down the line.

The proposed document is not going to end the discussions and the work that will remain to be done to provide for access points, public use, public safety, public emergencies, etc. He asked why this access point needs to be included now, and what flexibility the City has to work with the Conservancy to move forward on public access quickly.

Mayor Brand mentioned that he was knowledgeable of the Spano property during his term as member on the River Parkway Trust board. He stated that he believed the Fresno FAX can come up on its bus line at Palm and Nees, which is a perfect access point, and the City wants the project to be accessible to the entire town. He stated that the proposed location is the best location to provide access to this Parkway area for the entire community. After the environmental studies are completed, there will be a plan to operate it and allow visitors to enjoy a great amenity.

Mr. Gibson stated that the Conservancy has developed very well written Draft EIR, which does point to impacts that need mitigation. What hasn't been discussed is using highly managed access at existing available access points as a way to phase-in public access. He asked the Mayor how he feels about those views as 5B comes under the microscope and it is determined whether or not it is feasible.

Mayor Brand responded that given the positions on both sides and the unlikelihood of resolving them at this time, it is better to fully investigate 5B, then there will be a conclusive answer to move forward.

Chairperson Borgeas asked Mr. Rudd to explain why the City is making such a generous offer.

Mr. Rudd explained that the City is viewing this as a regional facility. The City already operates and manages at least three regional facilities with no or little support from the region, including Roeding Park and Woodward Park. There was a lack of foresight, things that were not taken into consideration, and one was access. If someone can drive a car then they can get to Woodward Park; without a car, that person may be out of luck. As a result, the City had to extend resources such as public transportation to Woodward Park in order to provide access to the broad community for those who do not necessarily have access to a vehicle. The reason the City is willing to help support this effort is that they believe that this is an alternative that provides greater access to the community. After they learned what happened with Woodward Park, they believe that being able to provide access at Palm and Nees avenues is a very positive alternative for the community because it does broaden the viability and use to the region, including for those who do not operate a vehicle. The City also believes that continuing to debate the pros and cons of other access points will cause further delays in our ability as a community to bring this project forward. The project is absolutely vital and important, a quality of life issue, and they believe that if access can be provided at this point the project could move forward. This is a small investment in finding a viable access at Palm and Nees.

Chairperson Borgeas commended the City for stepping up. He asked why it would be beneficial to pause the existing Draft EIR, pending completion of the City's study.

Mr. Rudd responded that the Conservancy Board would want to base its decision on the best information available. Without the study, in his opinion, it would impose some vulnerability on the viability of the EIR. The option was not fully vetted and could be challenged later on as a result. He stated they believe it the work will take three to four months. This is an opportunity to measure twice, cut once.

Mr. Frazier stated that he doesn't necessarily want to eliminate the other alternatives in the Draft EIR. If the alternative in question does not work, and environmental concerns cannot be mitigated, it will be hard to stomach if the December 31 deadline is not met. If it takes four months and an additional forty-five days for the review period, then that will be the middle of October, and the Final EIR will not be

presented to the Board until November—the schedule is cutting it very tight. He supports finding the best alternatives. Having been at the 5B site, he likes that it comes off a commercial street, which is efficient for traffic circulation and for drivers' safety, as well as better for residents. However, he does not want to eliminate the other options, not knowing at this time which is best. For Madera County, the proposed project includes a good access point, but he does not think that is the best project the Board can put forward. He asked if by next month the proposed study is not moving forward, is the City in the position to support one of the other access points?

Mayor Brand responded that he thinks its best that they go forward with the study. This project has been years in the making. They plan to push as fast as possible to get the work done. He promised they will return before the end of the year with a presentation. He asked the audience for patience as the process is fully examined, a good debate, and the end result is going to be public access to a beautiful amenity for the entire region, Madera and Fresno, and access will be provided for people who would normally never have access.

Mr. Frazier agreed, and stated he wants to arrive at a comfort level with the proposal. He asked if they find the study is not going to get done in time, is the City willing to "cut bait" before it's too late.

Mayor Brand stated that he's always been a very pragmatic person, he respects the organization, and he's looking for an end result that best benefits the public.

Chairperson Borgeas asked, if the City of Fresno does find that it is incapable of completing the project within the timeline we are working under, is it clear the Conservancy will be notified and can take precautions as a result?

Mayor Brand responded yes.

Ms. Marks suggested that the Conservancy provide to the City a schedule for what needs to be accomplished. For instance, the Final EIR has to be publicly available ten days before the Board meeting to consider approval. There is a structured process required by CEQA with a lot of timelines.

Chairperson Borgeas agreed, and directed Ms. Marks to lay out the schedule for Mr. Rudd so that it is clear what we need.

Ms. Marks stated that she too is approaching the process from a pragmatic standpoint to make sure she understands the Board's direction and can this carry out. As she understands it, Blair Church and Flynn would not just provide additional feasibility studies, but also study the environmental impacts of the new alternative. The Conservancy will need to review their document for consistency and coordinate very closely to make sure we have a lot of confidence in the final document.

Mr. Rudd stated that they will make sure that coordination is incorporated in their scope of work.

Mr. Donnelly noted that he himself and the WCB, along with many in attendance, have been working on the project for a long time, with many contract amendments and augmentations. Since this project is regional in scope—300+ acres, why couldn't the agencies go forward with both of the environmental review projects at once, the Conservancy continuing with the existing EIR and the City continuing on with their parallel project for the additional future access point?

Chairperson Borgeas responded that he believes that is technically possible, but policy-wise and to avoid possible legal challenges, it seems to be more expeditious and might have a greater chance of success if we do not bifurcate the projects—instead treat them as one. He stated that he could sense

the tension and noted the attorneys in the room, which is why he wants to make certain the project moves forward with minimal exposure to litigation that could compromise or ultimately derail the project entirely, but ensure the project will result in public access. He reminded those in attendance that no decision regarding the project or Final EIR would be made at the current meeting. The Board action to be considered is whether to accept the City of Fresno's offer to study another option as a complete approach to the project, and to reach a decision by the end of the year.

Ms. Vance stated that she supports anything that would allow for additional access directly from the City of Fresno. Since the Spano property is privately owned, she questioned the logistics associated with doing detailed planning for property that is not in the Conservancy's ownership.

Chairperson Borgeas stated that the Conservancy has a letter of support and multiple public expressions from the owner of that property that he desires this to occur; he is willing and highly motivated.

Ms. Vance noted that the Conservancy does not necessarily have the funds to acquire the property nor is there an entity willing to take the property. The Board talked previously about those issues.

Chairperson Borgeas stated that Mr. Spano has publicly expressed and in writing an interest in gifting the property, so there will not be a cost associated with acquisition. Regarding some of the environmental concerns, the point of the proposed study is to address those concerns and determine if the 5B project could be feasible and possible.

Mr. Janzen expressed that he could support the City's study but he will not exclude consideration of the other public access points. He is not eliminating Alternative 1—it is an access alternative that may be viable. The City needs to address the traffic problem on Audubon Drive. Traffic has gotten worse because of projects on Friant Road, between First Street and Audubon Drive. The traffic problem is not going away and will only worsen with buildout near Friant Road, with or without Parkway access. He does not want to give up on the other access points or alternatives; he thinks a combination will create the best project.

Mr. Gibson thanked Mr. Janzen for his common sense and comments. He anticipates, looking at the timeframes discussed at the meeting, the study and Final EIR would need to be considered at the Board's November meeting, possibly November 15.

Ms. Marks mentioned that once all of the Final EIR documents are generated, the final meeting would probably happen in December.

Mr. Gibson stated that it is interesting that 5B did not become an alternative in the Draft EIR. It did get reviewed by Blair Church and Flynn and later by AECOM. He asked Mayor Brand, in light of his fiscal prudence—and given that fiscal responsibility is also something the Conservancy Board must always take into mind—if 5B appears to be feasible after the study, but the very rough cost estimate of \$2.5 million provided by Blair Church and Flynn proves to be, for example, double that amount, where would the City be in terms of supporting the Conservancy in finding less expensive alternatives or supporting the Conservancy through City funds?

Mayor Brand responded that he would not speculate; they will cross that bridge when they get to it. Cost is a consideration, but once the study is complete there will be a decisive answer.

Ms. Lucchesi thanked the Mayor and City Manager for the generous offer. She suggested that moving forward with both proposed projects/environmental reviews in parallel paths would not create as much

of a legal hurdle as some may think. Nor does it constitute a public policy hurdle, given the amount of time the Conservancy, Board and the community has worked toward facilitating public access at this location. There is some concern about the legality of conducting additional environmental analysis on one subsection of one alternative without doing that same level of additional study on the other subsections of that particular alternative or on the other alternatives. That should be considered in the Board's decision. In addition, if the City is looking at studying feasibility, in particular the infeasibility elements identified in the Draft EIR, one option could be for the City to conduct their own feasibility analysis on that particular alternative, while the Conservancy's Final EIR is being conducted. The City's study could be taken into the Board's consideration for the ultimate project approval, but kept separate from certification of the Final EIR. That way, consideration of the certification of the Final EIR could occur without further delays.

Mr. Brandau noted that since he is participating by phone from a public place, he has not been able to hear every comment. He noted that the City of Fresno has planned public access to the river for a long time. He expressed concern about public statements and social media that portray the City as not being concerned or in support of public access to the river. He stated that Fresno cares greatly about access to the river. The City Council approved, about a year ago, \$70,000 to study public access in the vicinity of Palm and Nees. The City currently believes that Palm and Nees access is the best approach for access to the river for many reasons. They spent money to prove that it could be done. He was surprised that 5B and some of the other routes weren't fully studied in the Draft EIR. They are committed and willing to spend more time and money.

**Mr. Brandau made a motion to accept the City's offer to study the 5B alternate, the City would come back in 60 days to provide an update, and the Board can make more decisions at that time.** He stated that for those who are concerned about the City's timeframes or if they don't like the report, the extra work can be stopped at that time and the Board can look at other options.

Mr. Frazier commented on the thoughtful discussion of the Board members. He asked Mr. Brandau to provide a definite timeframe in his motion.

Ms. Vance suggested that the Conservancy staff must consider the CEQA timeline to incorporate the new information, and should then provide a schedule and required document formats to the City.

Chairperson Borgeas stated that there was a motion with friendly amendments to accept the City's offer, that they provide an update to the Board in 60 days, that Ms. Marks will devise a workplan with the City of benchmarks and dates so that the Final EIR would be discussed at the November Board meeting.

Mr. Donnelly stated that he would like to have resolution of the issues earlier, possibly October.

Chairperson Borgeas asked Mr. Rudd how soon a draft document will become available, maybe in the three month range.

Mr. Rudd stated that they are well aware of the Board's tight timeframe, and understand that the end of October is preferred. The schedule received from the Executive Officer will be incorporated in the scope of work, and the City will be back with a workplan at the June meeting.

Chairperson Borgeas requested the opportunity to view an early draft of the supplemental analysis as soon as possible.

Ms. Marks asked the Board if they wanted to review the draft before it is released for public review.

Chairperson Borgeas responded yes.

Mr. Rudd responded if it's possible to get a draft to the Board by October, the City will certainly do that.

Ms. Vance stated that the draft will have to be reviewed long before that, because we need to release it for the public review period, prepare response to comments, prepare final documents, all of this before December.

Ms. Marks stated that the document must be available for the August Board meeting if the Board wants to review the draft before it's released to the public.

Chairperson Borgeas stated that everyone wants to review the draft document at the earliest opportunity to make sure time is not being wasted.

Ms. Marks stated that by end of July, all material from the City will need to be ready to present to the Board at the August meeting.

Chairperson Borgeas suggested another friendly amendment to the motion, that the existing EIR will be paused so that so that is fully integrated with the City's study. There will not be a vote on the Final EIR in June, and the Board will plan to vote on the project in the fall.

Ms. Vance inquired about the public comment period for the Draft EIR.

Ms. Marks responded that the public comment period for the current Draft EIR is over and under this proposal a new one would begin in August or September.

Ms. Vance clarified that the Conservancy's consultant would still work on the response to comments on the Draft EIR to date.

Chairperson Borgeas agreed that pausing the EIR will not stop Final EIR preparation, but it will not be presented to Board for a vote until later.

Ms. Marks stated that work to analyze and respond to comments for the existing Draft EIR by the Conservancy and consultant, David Young of AECOM, would continue, although some work would be suspended having to do with responses to comments already received on Route 5B.

Mr. Frazier noted that the public would have the opportunity to submit new comments regarding the 5B resulting from the City of Fresno's EIR work, and meanwhile work on other portions of the EIR document would continue.

Ms. Marks noted that staff and legal counsel are not yet clear on the working arrangement. The City and its consultant propose to work independently, and present a work product to the Conservancy that would be intended to become part of the Conservancy's EIR for the trail extension project. The Conservancy would still be the lead agency.

Chairperson Borgeas said the City would be a cooperative partner.

Ms. Marks explained noted that the Conservancy will not have a contract with the City's consultants, the City will present its document to the Conservancy, and the Conservancy will need to make sure it dovetails with the Conservancy's existing documentation.

Chairperson Borgeas stated his confidence in the competence of the City to produce a quality analysis.

Ms. Marks stated she was not suggesting the City is not capable, but Conservancy is bearing the full responsibility of legal challenge to the EIR.

Chairperson Borgeas stated that if legal counsel, staff, or the Board have concerns, the resolution of those issues should be integrated into the City's process.

Mr. Donnelly asked what will need to be done with the Conservancy's existing consulting contract and the Wildlife Conservation Board funding agreement in order to incorporate the City's proposed work. The Conservancy's consultant will need to perform additional work—is that covered in the existing contract or would the contract need to be amended?

Ms. Marks noted that the Board has discussed the current timelines at length, but not much about the existing scope of work and the additional work to complete the EIR that would be generated by this proposal. It is very clear that there will be many problems if we try to amend the existing consulting agreement. The City of Fresno has offered to provide this work product, but there are still costs and burdens associated with the work that follows that would need to be performed by the Conservancy's consultant. If we are contemplating asking our consultant to take this work product, distribute it for public comment, respond to comments, and incorporate it in the Final EIR, that is clearly additional out-of-scope work and we have no budget or ability to amend the contract.

Mr. Donnelly stated that any requested amendment would need to secure California Department of General Services' approval.

Ms. Marks added that because it is considered a "No Bid" contract, it would be very difficult to secure that approval.

Mike Crow reminded the Board that the City was initially the lead agency and contracted with the consultant. For various reasons the Board agreed to accept assignment of the City's consulting contract and become lead agency. Normally this type of contract would require the Conservancy to conduct bidding—such as a Request for Proposals—therefore, after several amendments and extensions, the California Department of General Services has raised concerns about any further amendments.

Chairperson Borgeas asked if it would end this discussion if there was a funding source outside of the Conservancy that will supplement the Conservancy's existing consultant contract for the added work for the City of Fresno study.

Ms. Marks asked if Mr. Borgeas was suggesting that that the City of Fresno would have a contract with its consultant and a contract with AECOM to fund its added scope of work.

Chairperson Borgeas responded, if there are concerns about extending the scope of work and the Conservancy is relying on State funding for that work, would a supplemental source of funds alleviate those concerns?

Ms. Marks responded that there would need to be a supplemental contract, not just a supplemental source of funds. There is no way for the Conservancy to accept outside funds to pay for added work under the existing contract; we would need to amend the contract, and there are problems with doing that. Therefore, we would need a parallel contract for the City to provide for AECOM's work.



Chairperson Borgeas stated that any incompatibilities or bureaucratic barriers should be found in advance so that the project and process can move forward. We aren't in a position to provide all answers today. Our direction to the Executive Officer, assuming this motion was to pass, would be to find the best path forward, and if we cannot find a way to proceed then we have the ability to cut bait with the City of Fresno.

Ms. Marks commented that her best information available today is that the Conservancy would not be able to amend the AECOM contract; therefore, she is trying to figure out how to get the work accomplished.

Chairperson Borgeas added that the direction of the Board should be to give full faith and authority to find a way forward. If the proposal cannot be done for legal or administrative reasons, then the Board will cut ties with the City's plan.

Ms. Marks commented that she does not know all of the details or possible solutions at the moment.

Chairperson Borgeas assured those present that everyone wants to figure out a path to move forward and there is a safeguard that can accommodate variables if the intended path falls through.

Mr. Janzen commented to keep the motion simple. The motion can mention a thirty-day timeframe to return to the Board with a plan to implement the City's offer, but do not set deadlines that cannot be met.

**Chairperson Borgeas stated to Mr. Brandau and the Board that he wanted to restate and clarify Mr. Brandau's motion (inclusive of the friendly amendments): The Conservancy will accept the City of Fresno's offer to study the Palm and Nees access point (5B). The Board will delay the Final EIR and postpone voting on it until the City's study is integrated into the EIR. There will be a sixty-day reporting period from the City Manager to the Conservancy to make sure the study will be on track for completion within the required timeframe, if not then the Conservancy will come to a decision point on whether to move forward without the added study. Ms. Marks will coordinate a workplan with the City, and identify any legal or administrative constraints that might cause the Board to continue the process with the existing EIR, without the added study. The intent is to have a rough draft of the City's study provided to the Board in August. Under no scenario should there be a final vote later than the Board's meeting in November.**

Mr. Gibson said the Board has the opportunity to delay any vote anytime it wishes; there is no reason to put in this motion specific postponement. Voting on the issue will happen when the Board is ready and has considered all matters. (On Mr. Gibson's inquiry, Mr. Crow concurred that it is not necessary to include postponement in the motion.) He stated that they are accepting a generous offer from the City, and the Board expects they will report back with a plan, but to memorialize that the Board is pausing the existing, substantial EIR, seems unnecessary. Mr. Gibson suggested the motion should be, "We've agreed to accept the City's offer and would like them to report back to us as frequently as possible beginning with the next Board meeting."

Chairperson Borgeas stated that the Board should make certain that it is not bifurcating the EIR and the new study, so that the Board can consider all options at once. Mr. Borgeas addressed Mr. Brandau, stating that the chair had restated the motion and would ask for a second, then go into public comments.

**Mr. Crow suggested that the Board add to their motion that any action to study 5B, does not signify any legitimacy to any claim that the Draft EIR or process is inadequate.**

**Chairperson Borgeas agreed to make that part of the motion, and confirmed the entire motion with Mr. Brandau.**

Ms. Marks remarked that that until the comment response, the Final EIR and other documentation, and CEQA process are complete, there can be no conclusion drawn as to whether the EIR is adequate or inadequate. But staff and the consultant continue to believe the documents will be sufficient, even if the Board proceeds without the added study.

**Chairperson Borgeas seconded the restated motion.**

Chairperson Borgeas concluded the discussion and opened the floor to public comments. He encouraged commenters to stay within three minutes without repetition. He reminded the audience of the underlying issue: the motion to accept the City's proposal.

Public Comment:

Mr. Radley Reep, stated that EIRs are usually for land use projects that could have adverse effects on the environment. He stated that he does not believe the City has a project, since they will not be making a land use decision. The City should do a study, not an EIR. He cautioned the Conservancy about endorsing a second EIR which may end up in competition with the existing EIR. Everything will be thrown in total chaos, with different mitigation measures, different overriding considerations, and the proposed projects may differ as well. He stated that as someone who watches EIRs frequently, this can be a slippery slope. If the City is willing to do a study on its own, then the Board can extend the current Draft EIR by an extra month, let the City submit their study, and let it become part of the EIR. Do not start the process of developing two EIRs that will eventually butt heads.

Ms. Kristine Walter, resident at 220 W. Bluff, represents the San Joaquin River Access Coalition—stakeholders who will be directly affected by the Board's decision on the proposed project. She asserted that the Draft EIR failed to accomplish what the Board members directed and expected and what should have been done at the start: to examine all of the options that were technically feasible for access. Today is the opportunity to fix that. Ms. Walters stated that everyone wants the project to happen. It will take a lot of stakeholders to make sure the project comes to the ground. We should acknowledge that the only way that will happen is if everyone works together. This project will set the course for implementing the overall Parkway Master Plan. She encouraged the Board to accept the City's offer to study 5B and include it in the final assessment of the project. Although 5B was arbitrarily dismissed in the Draft EIR, it is the best alternative to move the project forward. You will hear opposition to this proposal, including that the City's own report found that 5B was infeasible. The report said the option will require remediation, but it never stated that it was not feasible. The road options that appear to be the most accessible will indeed cause more delays because some of the land is owned by an unwilling seller. The Board will also hear opposition stating that no one wants to take ownership of the Spano land; that can be worked on to find solutions. The Board needs to get access to the project right, and not eliminate options prematurely. She encouraged the Board to accept the City of Fresno's offer and get all of the information before adopting any version of the EIR.

Mr. Tom Bohigan, resident of 4817 N. Harrison, Fresno, commented that he hopes that Board remains focused on the primary task. The motion, and proposal by the City of Fresno, while well-intentioned, is a diversion. Although not the issue being discussed today, he supports all three access points to reduce pressure on any one point. Issues can be worked out through the public process. He stated that he is not against access at Palm and Nees, and doesn't know if using the Palm Nees access road

is better. While there may be a lawsuit associated with Alternative 5, there will probably be lawsuits no matter what. Even knowing that staff and the consultants will work hard, this process will not get done in November or December, because time frames slip, and the planning project will continue into 2018. The issues should have been scoped out five years ago. The Board should stay on the path the Conservancy is on, and if the City wants to assess further, then fine. There are many substantial questions that remain, even if the study shows the route to be feasible, such as, potential toxins, multiple property owners, and other factors presented before at Conservancy meetings. There needs to be maximum access for the public, the public owns the land below and protected that land from being developed as was planned 25 years ago.

Mr. Richard Sloan, 1509 E. Fallbrook, Fresno, stated that the proposed parking areas in the Draft EIR provide public access to only to ponds. He stated that 5B is the only option that provides for access to the river. He commented that people who carry their canoes and Kayaks would have the easiest access to the river using the 5B alternative; they would have to carry their watercraft a quarter mile or more to reach the river with other access points.

Mr. Gibson asked whether Alternative 5 in the Draft EIR is a canoe access point.

Mr. Sloan responded that people do launch from there, and it has the best beach; however, where the river narrows there is a current. You need to know what you are doing, and if you have little kids with you it is probably not the best place.

Ms. Sarah Parkes, 6804 N. Backer, Fresno, commenting as a private citizen and not as an employee of the River Parkway Trust, stated that she is a frequent runner on the Eaton Trail and is looking forward to have more trails to run on. If the City's offer is accepted and their findings are incorporated into the Final EIR, and it is rereleased to the public, will the Conservancy need to accept new comments on the entire EIR or just on the revised information for Alternative 5B? If the comments would be on the entire EIR, it would be very challenging to respond to all of them and complete the Final EIR by the end of the year.

Ms. Sharon Weaver, Executive Director of the San Joaquin River Parkway and Conservation Trust, shared copies of a letter and attachments with the Board. The letter was attached to Mr. Kinsey's letter which had been provided to the Board, but did not include the attachments. She stated that she appreciates Mayor Brand and his involvement in the River Parkway Trust over many years. However, the Trust disagrees with the City's proposal and asked the Board not to accept the City's offer. Their main concerns are the schedule and actually getting the project to move forward. There has been discussion, overt and more subtle, about possible litigation. For any EIR there is a potential for litigation, and no matter how long a decision is delayed, that potential will exist. They believe the City's offer is a delay tactic to prevent the vote on the EIR. They strongly encourage the Board to move forward with the existing EIR. There are no more questions left unanswered about the landfill or about Route 5B, except who is going to own the two pieces of property so that this part of the project could be implemented. The entities she has spoken with want the properties to be left in Mr. Spano's ownership. There is no question there were landfill operations above and below the bluff, as the Board knows from previous presentations. She does not think 5B is a feasible alternative, which is why they are concerned about allowing this study to be part of the EIR process. What could be accomplished by delaying the project?

Mr. Dan Morrow, a resident at 370 W. Audubon Drive, Fresno, said the draw for purchasing their home was access to the river. He asked the Board to consider very seriously the needs of the residents that will be impacted by the project. He stated that if the 5B option is found to be viable, it should be taken into consideration. He stated that it is not safe for his grandchildren to play in his front yard due to the

amount of traffic on Audubon and there is no safe way to walk in the neighborhood, especially with children. Palm and Nees—he walks down there all the time and sometimes fishes—is great for access to the river. Please take into account the residents of the community and make the best decision possible. He first heard about this in March, and is not on any particular side.

Mr. Barry Bauer, 242 W. Bluff, Fresno, commented that everyone wants the EIR approved as soon as possible and without any complications. There will be complications if the alternative around the “yellow gate road” (Palm Nees private access road at Alternative 5) is selected as a solution. There will be very little complication if the proposed 5B route is selected after study by the City. The route can provide a twenty-four foot wide road with two lanes. The ownership of the parcels is not necessarily important; certainly the City and Conservancy do not want to own them, the Spanos do not want to continue owning them, but any one of those could own them. If asphalt is put on top of the inert disposal site for parking, it will be a good mitigation method, according to the County of Fresno Hazardous Waste staff. He noted that there are off-site areas affected by landfill, but starting from the Palm Nees cul de sac, following down the bluff with a retaining wall, and on Fresno Metropolitan Flood Control District property, the road would be all on dirt. The road would continue to the inert disposal site property. It is a doable solution and the right solution, and County Environmental Health has signed off on the parking lot as mitigation for the inert waste site. Palm and Nees avenues have great vehicle infrastructure to support the river access point. The added EIR work is at no cost to the Conservancy; the site would not conflict with the City’s General Plan; there’s no mitigation associated with 5B; the cost will be reasonable considering the cost of the proposed staircase, and the staircase won’t accommodate bicycles; once visitors are at the bottom they will be at-grade for ADA access; and they can launch boats into the ponds or the river. He believes everyone agrees that option 5B is the right solution.

Mr. Gibson asked Mr. Bauer for clarification on whether the entry for route 5B from the cul de sac to the right turn is native soil or landfill.

Mr. Bauer responded that based on the County’s maps the road would be on dirt, but the remaining area is landfill. He went on to say that the City accepted the Spano Park parcel, so he must assume it is clean—no landfill.

Mr. Gibson noted that he had heard from Mr. Spano that the area of the entry road was landfill.

Mr. Bauer stated that much of the nearby area is landfill.

Ms. Alice Fable, lives at 1140 E. Fountain Way, Fresno, and works at the Fresno Bridge Academy in Pinedale with some of the poorest families in Fresno. They have more than 100 families enrolled in their employment and training program, and most have young children. The mission of the Bridge Academy is to help the families exit out of poverty and provide them the resources they need to become self-sufficient. For most of the families, paying to enter Woodward Park is luxury they cannot afford. The San Joaquin River is wonderful but it is far for the Pinedale families, and they do not have a lot of other options in the area. Making the river, which is so close, more accessible to the residents in Pinedale will go a long way serving the public good. The benefits of providing children regular access to nature and the outdoors are outlined by the American Psychiatric Society as a reduction of stress, greater health, more creativity and improved concentration. By providing access, a message is sent that the community’s needs are important. The Palm and Nees location is by far most desirable access point for Fresno and Pinedale families. It is easy to locate, accessible, and will not disturb private residences. It would be wonderful to have parking by the river to help families with young children and those with disabilities. She urged the Board to accept the offer from the City for the study. Access to the river will help children thrive, and when they thrive so does the community.

Steven Pitman, has lived at 4009 N. Angus, Fresno, for 23 years. There is a City park in the middle of his neighborhood which is readily accessible from several public streets. The park is used by all citizens from throughout the city, and the PARCS department does a very good job of maintaining it. It would be absurd for him to think the neighborhood streets are all private streets and that he would not want the public to travel through his neighborhood to the City park. Mr. Pitman stated that there needs to be as many access points to the river as possible; if the proposed access point works out, fine, but the Board should not eliminate the other access points. If everyone had the attitude that others should not access parks through their neighborhoods, then no one would have access to any of the parks.

Mr. John Kinsey, counsel to the River Access Coalition, stated that his comments at the meeting were to focus on solutions. The Board would take action to expand options, or limit options. He stated that his group has worked tirelessly over the last couple of months with other stakeholders, being as inclusive as possible, to come up with solutions, and have made a lot of progress. They have developed a plan in conjunction with other land owners and the City to help bring the process to fruition, and to work together without litigation. Litigation is not the best step forward. Recirculation of the document after it is augmented by the City is not necessarily required; there are other ways for the Conservancy Board to consider 5B through an augmented Final EIR that has considered and is in response to comments that have been made. Route 5B is not considerably different than Alternative 5 presented in the Draft EIR. This is something the courts have condoned—there was a case a couple of weeks ago where the court essentially upheld a similar process. He does not think that recirculation is absolutely necessary, and he is willing to help and engage in discussions with Conservancy staff if that is a concern. With respect to studying one option, and not all others, the case he mentioned does address that issue. These issues should not prevent the Board from moving forward with analysis of 5B—a lot of these issues have been considered and made clearer by the Court of Appeals over the past few weeks. In addition, the group is working on resolving land ownership issues. First of all, the property on the floodplain is inert landfill—that does not mean there are hazardous substances; even ultimately if there are issues, there are any number of ways to address them. For example, a Limited Liability Corporation could take over the property and lease the property to the Conservancy. He urged the Conservancy not to take options off the table and continue to work towards an option that will fulfill the needs of all residents in the City and the surrounding communities.

Ms. Linda Amparano, 7361 N. San Pablo, Fresno, is a Pinedale resident and community organizer. She shared that a few years ago, Sharon Weaver approached her about the idea of having good public access from Pinedale to the river. She knew that citizens in the community used the river for fishing, particularly in the area at the base of the Palm Nees access road. Recently, she became active with using the Eaton Trail for exercise. She expressed excitement about the project. She agreed that for some people, using Woodward Park is expensive, so she is promoting carpooling to the park. As a community, Pinedale has needed to fight to remain a residential area, and she knows what it is like to work with the City to get what they want. The Conservancy will need to work cooperatively with the City over a long time, so it is best to get on good terms. She stated that she supports 5B because it is much better for the community to access than the route through Riverview Drive. She agreed with Mr. Brandau that the negative comments about river access points from the San Joaquin River Parkway people were disheartening. Even though there are disagreements, they all need to work together. She stated that everyone, including herself, has self-interest associated with the project so it is important for everyone to work together, and be sure there is agreement to move forward. The community supports the proposed extension of the Eaton Trail.

Mr. Pete Weber, 320 W. Bluff Avenue, resident of Fresno, has criteria for the best path forward, and encourages the Board to consider his criteria. He stated that he is a very strong proponent of making the Eaton Trail extension a reality sooner rather than later. After studying for 13 years, it is time to

make this a reality. He is also a strong proponent of improved access to the river from the Fresno side. He is a strong proponent for making river itself easily accessible to the residents of Fresno. He would like to have good access to the river for everyone, including children and people with disabilities—that means providing good parking. Last, he has great respect for the City's 2035 General Plan—he knows how hard and how long the City spent developing the plan and it should be respected. The option being discussed today meets all of these criteria. He does not believe the City's offer is a delaying tactic, and he knows Mayor Brand is making the offer in good faith. He encouraged the Board to accept the City's offer, end the speculation, study to find the best option, and get this project done. He is excited for the project to happen sooner rather than later.

Mr. Zach Darrah, Executive Director of Fresno Interdenominational Refugee Ministries, residing at 4436 W. Providence, Fresno, stated that the reality is that the project has already been delayed for many years, and yet the Board is considering more studies. This proposal is for a new road that does not exist and, for whatever reason, was not included in the Draft EIR. Considering that the City's administration often asserts that the City does not have money, why is it bending over backwards to avoid using an existing public road for public access? That existing point may not be perfect, but it appears the proposed access is not perfect either. He stated that everyone says they want access, but not everyone is using the terms the same way. Access is not the question, but how the access will be provided is the question to think about. He stated that this option is a slippery slope and does not seem like the best decision.

With no more individuals indicating that they wished to speak, Chairperson Borgeas concluded the public comments.

Chairperson Borgeas noted that the situation is somewhat confusing, but to simplify it, everyone wants a project and are committed to making the project work. The issue is how to avoid influences or players that could disrupt or derail the project. Some statements have been made that litigation is inevitable, but he, Mr. Brandau, and Mayor Brand have spent a lot of time trying to find a way to implement the project without litigation; litigation could tie this project up for two to five years. He thanked Mayor Brand and Mr. Rudd for their attendance. He has been working on this for nine years; we can work on this for three or four more months. The motion before the Board is to accept an offer from the City that avoids litigation. The offer will provide a study that should have been completed before. The study provides the opportunity to see if 5B can be made to work. The motion does not involve other aspects of the project. He thinks the opportunity is a win-win. If folks are opposed to 5B or to the Riverview Drive entrance alternative, this study does not change the project. It provides the opportunity to study an additional alternative, and the Board will make a decision about the proposed project in the fall. The Board does not have anything to lose in approving the motion. If the Board disregards the City's offer, there will be litigation. He asked the Board members to consider what is there to lose and gain, because everything is their favor. There are safeguards in the motion to be sure the study does not delay future approval of the project, and the Conservancy can "cut bait" if necessary, and not lose anything.

Ms. Vance commented that unfortunately some of the motivation is a severe case of NIMBYism on behalf of the bluff homeowners. There are several people who are happy to continue using the State-purchased property as a personal park that only they and a few others have access to, which is completely unacceptable. Anything that results in a delay in the River West project moving forward gives her great concern. That said, the proposed project in the Draft EIR does not provide the best access from the City of Fresno for those who are the less wealthy in our community. She stated her belief that Conservancy should consider the option. The Draft EIR demonstrates significant hurdles for 5B; however, if there is a way to make this route happen and provide that much more access to the

City, then there has to be a pause for a time to complete the additional studies. The Board must be sure that the process is completed this fall.

Mr. Frazier supported Ms. Vance's statement, and stated that Alternative 5B appears to be a great location; Riverview Drive is not a bad alternative either. He does not see why the project would not provide both access locations. His vote today will not suggest he favors one alternative over the other or that any alternatives are off the table; if they can eventually provide access at more locations, they may end up doing that. This action will not preclude all of the alternatives from being part of the Final EIR, but the Conservancy may find 5B creates good access.

Mr. Oliver stated thanked the Mayor for helping to provide options. The Board should consider any viable and feasible options. He stated that he shared similar beliefs with Mr. Janzen's earlier comments, that the Board must ensure there is a broad canvas to implement the project, and not be confined to a rigid proposal. He expressed concern about the prospect of potentially compromising the EIR. He sensed that staff and Mr. Crow did not have ample opportunity to consider the process, develop a timeline, and consider the scenarios and legal implications prior to the meeting. He asked Mr. Crow if he had any final thoughts to add regarding the proposed process, versus allowing the City to proceed on a separate process.

Mr. Crow stated that if the Board accepts the City's offer, he and Conservancy staff and the City staff should get together as soon as possible to work out the details and legal questions. There may be significant issues, or they may insignificant. Lead agency status should be clarified and as well as how the City and Conservancy would share potential liability. If the Conservancy is the lead agency, staff and legal counsel need to work out the Board's and staff's oversight responsibilities and authorities with regard to the City's consultants.

Chairperson Borgeas agreed that these issues must be worked out.

Ms. Vance mentioned that before moving past the item, the Board should schedule a Board meeting in a few weeks to check on some of the important details. Given the sixty day timeframe for the City's report, there will probably need to be a Board meeting scheduled in July.

Ms. Marks commented that if the Board approves the motion, staff can come back at the June meeting with a workplan and other information on how to complete the City's study and EIR process. For the agenda item today, staff and legal counsel were unaware of exactly what the City was proposing and the extent of the proposed study.

Chairperson Borgeas agreed that the workplan for the City's study would be on the Board's June meeting agenda so that the Board's questions about the process can be answered.

Mr. Gibson asked Ms. Marks to comment or provide information at the June meeting, about whether funding is jeopardized if the project is not completed by the end of the year. He stated he has heard that since the project has gone on so long, the State has questioned the Board's seriousness.

Ms. Marks stated the deadlines the Board has discussed are predicated on the very real premise that the consultant contract to complete the EIR expires December 31, and the Conservancy is not in the position to extend it, change the scope of work or amend it in any way. The funding grant also expires December 31.

Mr. Gibson followed, that originally the Board was going to consider the Final EIR in June in order to be sure these deadlines were met. If the Board does not receive the public comments on the Draft EIR

until August or September, will that push the deadlines beyond December 31? He noted that July would be difficult to secure a quorum for a Board meeting.

Ms. Marks responded that, based on the motion presented, she will come back June 7 with a workplan, and the Board will decide if the City's proposal can or can't happen within the timeframe. The City knows its contracting process and how quickly they can get consultants on-board. We need to discuss with them the scope of work and a clear time schedule. If the study can't be done as proposed by December 31, the Conservancy can move forward with the existing EIR for completion by December 31. We have an elaborate EIR, it is adequate, it did complete a constraints analysis of all of these route options, and the consultant's scope of work was to come up with one access point for Alternative 5. The Draft EIR does present the filtering analyses for the various routes and why 5B did not become the chosen alternative. If we discontinue with the City, that study can happen at a future time or tier from the EIR, and the Conservancy's EIR, once completed (responding to comments, preparing the Final EIR, etc.), will still be sufficient and adequate.

Chairperson Borgeas commented that the Board is going to do whatever it takes so that the deadline is not put in jeopardy.

Ms. Marks noted the Board has invested over \$500,000 in this planning effort, so it is very important to complete it. She will work with the City to see how their proposal can get done.

Ms. Goodwin commented that moving forward with the City may be fine, but we need to accomplish what we set out to accomplish. Over many years she has seen many contracts lined up; if the City cannot get the studies completed by our timeline for the EIR, that would not mean the Board can't look at the option later. All of the options need to be considered in the long range. The long range—population, development—may change the dynamic in, for example, twenty years' time, and in twenty years the plans may mutate. We can work with the City, but we have to honor our own responsibilities.

Mr. Gibson stated he wants to get away from the phrase, "cut bait." Because of the work the Board has done, the effort to incorporate the City's offer into the EIR process will be given the staff's full attention and we may need to push timeframes. He has worked on this project a little more than seven years, and the Board is as obligated to all in attendance. The Conservancy needs a very long term relationship with City. Mr. Gibson quoted from a proposed traffic mitigation measure in the Parkway Master Plan Update Draft EIR that would require the Conservancy: to prepare traffic studies for future projects, address any unsafe traffic conditions potentially created by the proposed project, and incorporate designs and features necessary to ensure safe and acceptable traffic operations in accordance with the Level of Service policies of the respective agencies. These issues will remain a concern, but the Board's action on the City's proposal will need to respond to the constraints of our deadlines as presented at this meeting.

Chairperson Borgeas asked Mr. Brandau if he accepted the friendly amendments as seconded. Mr. Brandau confirmed that he did. The Board asked for the motion to be read into the record again.

**Mr. Borgeas reread the motion (see page 16): The Board will accept the City of Fresno's offer to study route 5B; the action will not bifurcate the Draft EIR from the study process, unless it proves that it cannot be completed within the Conservancy's timeframe; the safeguards the Board will have in place are that the Board will discuss this issue at the June 7 meeting, there will be a 60-day report back from the City, ideally there will be a rough draft from the City no later than the August Board meeting, and the Board will not consider the City's study later than November.**



Ms. Marks clarified that by “bifurcate,” the motion was stating that the added study would be incorporated fully into the project EIR and process.

Mr. Gibson reminded the Chair that the motion included a caveat suggested by Mr. Crow.

**Mr. Borgeas added the amendment accepted from counsel, that the Board’s acceptance of the City’s offer to study 5B was not inferring that the existing Draft EIR and process were not adequate or sufficient.**

The members passed the motion by majority vote as follows:

Name	Yes	No	Abstain
Chairperson Borgeas	X		
Mr. Frazier	X		
Ms. Alvis	X		
Mr. Brandau	X		
Mr. Oliver	X		
Ms. Goodwin	X		
Mr. Janzen	X		
Ms. Vance	X		
Ms. Finn—absent, left the meeting before the vote			
Mr. Gresham	X		
Mr. Donnelly	X		
Ms. Lucchesi		X	
Ms. Forhan	X		
Mr. Gibson	X		

#### H. ADMINISTRATIVE AND COMMITTEE REPORTS

If time allows, the following oral reports will be provided for informational purposes only, and may be accompanied by written reports in the Board packet. No action of the Board is recommended.

Chairperson Borgeas postponed agenda item I-1 to a future date, without discussion, due to the length of the meeting.

#### I. EXECUTIVE SESSION

- I-1 Government Code Section 54956.8  
Consultation with real property negotiators concerning terms of negotiations, including price and terms of payment.

Property: County of Madera  
Former Cobb Lease Parcel  
Madera County (APN 049-085-023)

Negotiating Parties: Eric Fleming, County Administrative Officer

Agency Negotiators: Melinda Marks, San Joaquin River Conservancy

J. NOTICE OF BOARD, ADVISORY, AND PUBLIC MEETINGS

None.

K. NEXT BOARD MEETING DATE

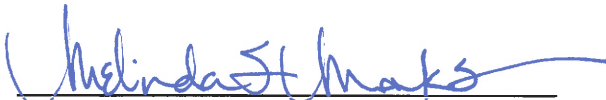
**The next meeting of the Board will be held June 7, 2017, at 10:00 a.m.**

L. ADJOURN

**Chairperson Borgeas adjourned the meeting at approximately at 1:20 p.m.**

Board meeting notices, agendas, and approved minutes are posted on the Conservancy's website, [www.sjrc.ca.gov](http://www.sjrc.ca.gov). For further information or if you need reasonable accommodation due to a disability, please contact Janah Wright at (559) 253-7324 or [Janah.Wright@sjrc.ca.gov](mailto:Janah.Wright@sjrc.ca.gov).

Respectfully Submitted,

  
Melinda S. Marks, Executive Officer